

**In the Matter of Arbitration Between  
IBEW, Local 110 and ADT Security  
Services, Inc. (Minneapolis-St. Paul,  
Minnesota)**

**OPINION AND AWARD**

**American Arbitration  
Case No. 65-300-00304-05**

**GRIEVANCE ARBITRATION**

**ARBITRATOR**

Joseph L. Daly

**APPEARANCES**

On behalf of IBEW, Local 110  
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On behalf of ADT Security Services, Inc.  
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**JURISDICTION**

In accordance with the agreement between ADT Security Services, Inc. (Minneapolis-St. Paul, Minnesota) and International Brotherhood of Electrical Workers, Local 110, AFL-CIO, December 6, 2002 - December 5, 2005; and under the jurisdiction of the American Arbitration Association, the above grievance was submitted to Joseph L. Daly, Arbitrator, on June 29, 2006 at the American Arbitration Association, Minneapolis, Minnesota. Post-Hearing Briefs were filed by the parties on September 6, 2006. The decision was rendered by the Arbitrator on September 29, 2006.

**ISSUE AT IMPASSE**

The Union states the issue as:

Did ADT Security Services, Inc. violate the Collective Bargaining Agreement where it used employees who worked under ADT's contractor license in Minnesota without providing them with a contractual pay and benefits and without requiring them to be Union members, as required under the Agreement? If so, what is the appropriate remedy? [Post-Hearing Brief of Union at 2].

ADT states the issue as:

Are “Sensormatic” servicemen, whose primary responsibility is “Electronic Article Surveillance” [EAS] work, which unit employees have not performed and are unqualified by education and experience to perform, Bargaining Unit employees. [Post-Hearing Brief of ADT at 4].

**The potentially applicable contract provisions include:**

**ARTICLE 1**

SECTION 1: The Employer hereby recognizes the Union as the exclusive bargaining representative with respect to rates of pay, wages, hours and other conditions of employment for the employees in the Bargaining Unit for whom the Union was certified by the National Labor Relations Board on July 1, 1980, in case number: 18-RC-1097 including all full-time and regular servicemen employed by the ADT Security Services, Inc., at its facility located in Minneapolis – St. Paul, Minnesota, but excluding all alarm operators, office clerical employees, professional employees, guard and supervisors as defined in the Act, as amended.

SECTION 2: The operations of the Employer’s business and the direction of working force including, but not limited to, the making of and enforcement of reasonable rules and regulations relating to the operation of the Employer’s business, the establishment of reporting time, the right to hire, transfer, lay off, promote, demote, discharge for cause, assign or discipline employees, to relieve employees from duties because of lack of work or other legitimate reasons, to plan, direct and control operations, to determine the amount and quality of work needed, to introduce new or improved methods, to change existing practices, and to transfer employees from one location or classification to another is vested exclusively in the Employer, subject, however, to the provisions of this Agreement.

SECTION 3: All employees covered by the terms of this Agreement shall be required to become and remain members of the Union as a condition of employment from and after the thirty-first day following the date of their employment or the effective date of this Agreement, whichever is later.

[See Joint Exhibits No. 1 and 2 at pp. 3-4].

**FINDINGS OF FACT**

1. On March 16, 2005, Local 110 Business Representative, Rick Bieniek, filed a grievance which stated in applicable part:

STATE GRIEVANCE: Art. 1 Section 1 & 3 and all other provisions of the agreement by using employee of A.D.T. Sensormatic to do Bargaining Unit work under A.D.T.’s Power Limited License without requiring employees to become union members and by not following all portions of A.D.T. contract concerning pay and benefits.

SETTLEMENT REQUESTED: All employees working under the ADT Power Limited license or identifying themselves as A.D.T. employees should be or

become full union member as described in the ADT Contract. All individuals identified as ADT employees not working under the Current Bargaining Unit Agreement will get all correct wages, and benefits and union dues back paid for the last 30 days.

Company's Reply To Grievance:

Describe Grievance

Business Agent Bieniek was driving by Maplewood Mall on Wednesday, March 16, 2005. He observed 6 A.D.T. vans parked in lot near new J.C. Penney store and decided to stop in. After walking thru job site he was able to identify 4 union A.D.T. employees. He identified which employees were driving which van. 2 vans drivers were unaccounted for. He then located 2 individuals who said they were driving the other 2 vans and they identified themselves as A.D.T./Sensormatic employees the 2 men were working on cameras at that time which is work done under the Collective Bargaining Agreement.

What Remedy do you want

All employees working under the A.D.T. Power limited license or identifying themselves as A.D.T. employees should be or become full union member as described in the A.D.T. contract. All individuals identified as ADT employees not working under the current Bargaining Unit Agreement will get all correct wages, benefits and union dues back dated for the last 30 days.

[Joint Exhibit No. 3]

2. On March 15, 2005, Local 110 Business Representative, Rick Bieniek, was driving in the area of the Maplewood Mall in Maplewood, Minnesota, when he noted six ADT vans in a parking lot and decided to investigate the work site. One of Mr. Bieniek's jobs as a Business Representative for Local 110 is to inspect job sites and insure that the Union contract is being adhered to at those job sites. Mr. Bieniek did not specifically go to this job site because he believed that any violations were occurring, but rather to monitor contract compliance, as he typically does. Mr. Bieniek noticed that ADT vans were parked outside a store that was being converted from a Mervyn's to a J.C. Penney store. Mr. Bieniek entered the store and found three ADT employees who were Bargaining Unit members that he recognized. In speaking to those employees, they stated that one other employee was working with them, but they were the only ADT employees working on their project and did not know the other employees driving ADT vans. Mr. Bieniek went to the roof to talk to the employees. Mr. Bieniek approached the two individuals, introduced himself and asked who they were. They said they were

ADT employees. Mr. Bieniek then said he was a Business Agent, showed them his business card and his dues receipt, and asked to see their dues receipt. At that point, the employees said they were Sensormatic employees. The employees did not have dues receipts and told him they were not members of Local 110 and not operating under the ADT Collective Bargaining Agreement. One of the employees gave Mr. Bieniek his business card. That employee was Vincent White, who is listed on his business card as a “Field Service Technician”, and the business card lists his employer as “ADT-Sensormatic” and has the names of “Tyco Fire & Security”, “ADT” and “Sensormatic” on the card. Mr. Bieniek testified he observed the employees removing security cameras from the roof, work which Mr. Bieniek testified was traditionally performed by the Local 110 Bargaining Unit at ADT.

3. Mr. Bieniek discovered that the only licensee for electrical work in the State of Minnesota is “ADT Security Services, Inc.”, the employer with whom Local 110 has a contract. ADT representatives do not contest the fact that neither “Sensormatic” nor “ADT-Sensormatic” has a license to perform electrical work in the State of Minnesota, and that “ADT Security Services, Inc.” has the only such license.

4. The parties agree that the work performed by all of the employees at issue in this arbitration is known as “limited energy or power limited work”. The work is performed on low voltage electrical circuits, rather than line voltage electrical circuits. [Post-Hearing Brief of Union at 6]

The type of work performed by the employees at issue in this proceeding is work on technology circuits or systems, as defined under Minnesota law. Under Minnesota law, only employees, partners, or officers of a licensed contractor may perform electrical work, including low voltage electrical work. As a result of Mr. Bieniek’s observations, he filed a grievance dated March 16, 2005 [See Finding of Fact #1 above].

5. Initially, ADT took the position that “Sensormatic associates are not part of the Midwest region ADT field office, and are part of another separate organization”. [Employer Exhibit No. 1]. ADT later provided the names of Sensormatic employees performing security systems work in the State

of Minnesota. [Union Exhibit No. 4] That letter contains the name of seven individuals who ADT admits are performing security system work within the State of Minnesota and are not members of Local 110 and have not been paid pursuant to the Collective Bargaining Agreement. At the arbitration hearing in this matter, ADT argued that all of the employees were ADT employees working under the “ADT” contractor license; but the Sensormatic employees were not working out of the Minneapolis/St. Paul office, and, therefore, not covered under the Collective Bargaining Agreement. [Post-Hearing Brief of Union at 8]

6. After the grievance was filed, Mr. Bieniek observed additional ADT-Sensormatic employees performing work in the Twin Cities Metropolitan area. In August of 2005, at the Lakes of Woodbury development in Woodbury, Minnesota, Mr. Bieniek observed an employee installing a theft detector system. [Testimony of Mr. Bieniek at arbitration hearing]. When asked to produce a dues receipt, the employee stated “I am not ADT; I am ADT-Sensormatic”. [Id.]

In June 2006, Mr. Bieniek observed some Ford Communications employees working at a Best Buy job site in Maplewood, Minnesota. Ford Communications is a Union signatory contractor. Mr. Bieniek asked a Ford Communications personnel for whom they were working on the job site and they said it was for ADT-Sensormatic, and they were waiting for the Sensormatic employees to arrive. [Testimony of Mr. Bieniek at arbitration hearing].

7. Jeffrey Kortman, Local 110 steward, testified that in January of 2005, he was performing a fire alarm inspection on his normal route at a Circuit City store in Maplewood, Minnesota. While at the Circuit City store, he saw an individual he did not recognize in an ADT van. The person got out of the vehicle to talk to Mr. Kortman. That person had an ADT identification tag that had his picture on it and also had “Sensormatic” typed under the picture. Mr. Kortman testified the man indicated he was working on a theft detection system at the Circuit City store. [Testimony of Mr. Kortman at arbitration hearing]. In June 2005, Mr. Kortman came up to a job site and saw an employee in an ADT van. The employee drove off.

8. Mr. Shane Lippert, a service technician for ADT, who earlier had been an installer for ADT, testified that he had a repair ticket for a burglar system at a Michael's store in the Sunray Mall in St. Paul, Minnesota. He testified he arrived at the job site and observed two ADT vans at the site. They looked to be the same sort of van he was driving. When he spoke to a technician inside, the technician stated the only difference between the vans was the phone number that was listed for people to call, which was a "612" [Minneapolis] area code number, rather than the 1-800-ADT-ASAP number used on all other vans. Mr. Lippert testified that one of the individuals was on a lift working on a movable camera that was part of the CCTV system that was part of the theft detection system, while the other employee was in an office working on the "head end" of the CCTV equipment, which is where all the recording and multiplexer equipment is located.

9. Mr. Craig Norman, a member of the Union testified he observed Sensormatic employees working at a Burlington Coat Factory in Blaine, Minnesota. Mr. Norman testified he was working at that location installing a burglar alarm system and a fire alarm system. While he was working at the front doors, he saw an ADTV van pull up. Mr. Norman went outside to see who it was and to tell them what tools they needed. Mr. Norman testified he was not familiar with this ADT employee. Mr. Norman testified he observed this individual and two other individuals during that day, each of whom drove ADT vans, installing a theft deterrent system at the main door. Mr. Norman testified the theft deterrent system on which the individuals were working was not a system that Mr. Norman had previously installed, but it was low voltage electrical work that he was capable of performing.

10. Mr. Norman also testified that on January 24, 2006, he observed two Sensormatic employees in the head-end room, programming cameras for a theft detection system at Dick's Sporting Goods in Burnsville, Minnesota. Mr. Norman was at that job site installing a burglar and fire alarm system as part of a remodel of the store. Mr. Norman testified the work the Sensormatic employees were performing was work that was part of the installation of a CCTV system and work of the type that he had performed for ADT in the past.

11. ADT Security Services, Inc. contends that “the Bargaining Unit is and always has been limited to ADT servicemen who primarily work on fire and burglar alarm systems and report to the ADT office in Minneapolis”. [Post-Hearing Brief of Union at 2]. ADT Security Services, Inc. contends that the “Sensormatic” servicemen, although ADT employees, do not report to the Minneapolis office; the supervisory and reporting structure is completely separate from the ADT reporting and supervisory structure for fire and burglary alarm work, not only in Minnesota, but nationwide. “Sensormatic” is a term denoting theft detection systems (termed in the record “Electronic Article Surveillance” or “EAS” systems) to prevent shoplifting that are installed in service by ADT in retail establishments. The Sensormatic organization is also known as the “retail division”. There are between 300 and 400 Sensormatic technicians employed by ADT throughout the United States, none of whom are represented by the IBEW or any other regular Union under any Collective Bargaining Agreement with ADT covering fire and burglar alarm servicemen. [Post-Hearing Brief of Union at 2].

12. ADT further contends “the Bargaining Unit employees in this case are not qualified to do the EAS work of ‘Sensormatic’ technicians, which requires an associate degree in electronics or equivalent experience. No such degree or experience is required for ADT fire and burglar alarm servicemen.” [Id.].

13. The “Sensormatic” or “Retail Division” technicians work from their homes. They do not report and are not supervised from the Minneapolis ADT office. Their work in dispatching is paperless. The Retail Division [“Sensormatic”] of ADT has a separate Human Resources Department and separate managerial and administrative personnel [in Boca Raton, Florida] within ADT Security Services, Inc. “[u]nlike the fire and burglar alarm servicemen who report to and are supervised from the Minneapolis office”. [Id. at 2]. ADT Services, Inc. contends that “the evidence shows that Sensormatic was once a separate company and was acquired by Tyco, the parent company of ADT, in approximately 2001. Only then did EAS or “Sensormatic” work become part of the ADT organization”. [Id.]

14. ADT Security Services, Inc. contends “Sensormatic servicemen are ADT employees but not ADT Bargaining Unit employees. The Bargaining Unit is narrowly defined and is never included “Sensormatic” servicemen, whose primary responsibility is EAS work, which unit employees have not performed and are unqualified by education and experience to perform. The Union has shown no ‘practice’ to the contrary. The contractual bargaining unit came into existence long before EAS work [and Sensormatic corporation] became part of Tyco and ADT. To the extent that Sensormatic employees and Bargaining Unit employees both do CCTV work, such work is not their primary function and is done for different customers. There is no evidence that the contractual Bargaining Unit has lost work as a result of the performance by Sensormatic servicemen of some CCTV work. Moreover, the Collective Bargaining Unit does not vest exclusive jurisdiction in the Union to all or any particular ADT work or even describe ‘Bargaining Unit Work’”. [Post-Hearing Brief of Union at 4].

15. Essentially, the Union argues that “ADT’s arguments in this case attempt to elevate form over substance and allow ADT to avoid its contractual relationship to Local 110 by the simple expediency of clarifying the location from which it chooses to dispatch employees. The contract does not require that employees physically report to a particular facility in order to be covered under the Collective Bargaining Agreement. The employees involved in this grievance are all admittedly ADT employees. The fact that some are dispatched from their homes while others report to a particular office is of no consequence under the Collective Bargaining Agreement. These are all ADT employees, working under one contracted license, and indistinguishable from each other by any member of the public. The Union requests that the arbitrator sustain its grievance; order ADT to pay contractual pay and benefits to all employees operating under ADT license in the State of Minnesota, and to make all employees who have worked in Minnesota under the ADT license since February 16, 2005, whole for the failure to pay contractual pay and benefits for the time worked in Minnesota, including deducting and paying to Local 110 the appropriate dues for the time employees worked in Minnesota; and to retain



jurisdiction in this matter in case additional proceedings are necessary to enforce that remedy”. [Post-Hearing Brief of Union at 21].

16. ADT Security Services, Inc. argues that “the Union’s effort to broaden the scope of the agreement through negotiations has failed. The Bargaining Unit is, by its express terms, limited to ADT servicemen employed in the Minneapolis-St. Paul office. This manifestly excludes Sensormatic servicemen, who report to a different organization within ADT with wholly different management and different Human Resource functions as well as other support functions. Under these circumstances, the Union’s request that the arbitrator find Sensormatic servicemen to be Bargaining Unit employees is in essence a request that the arbitrator rewrite the parties’ contract, which the arbitrator is obviously without authority to do. It is also a request that the arbitrator accrete Sensormatic servicemen to the contractual Bargaining Unit without a vote of those servicemen, thereby usurping the separate representation rights of the Sensormatic servicemen to choose whether or not to be represented by this Union or any Union”. [Post-Hearing Brief of ADT Security Services, Inc. at 4-5].

### **DECISION AND RATIONALE**

Tyco Fire & Security is a multinational company which has purchased a number of smaller entities and set up many subsidiaries. ADT Security Services, Inc. is one of those subsidiaries. ADT Security Services, Inc. has had a Collective Bargaining Relationship with International Brotherhood of Electrical Workers, Local 110 since July 1, 1980. IBEW Local 110 employees performing low voltage electrical work within the State of Minnesota have operated under the Collective Bargaining Agreements with ADT. Typically, if employees from outside of Minnesota came into Minnesota to perform work, the employee reported to the ADT office in Minneapolis and became members of Local 110 for the duration of their work in Minnesota. The usual type of work IBEW Local 110 employees have done for ADT Security Services, Inc. is to install burglary security systems, fire security systems and close-circuit television systems connected with the respective burglary and fire systems.

Article 1, Section 1 of the Collective Bargaining Agreement states that “the employer hereby recognizes the Union as the exclusive bargaining representative”. Article 1, Section 3 of the CBA states “all employees covered by the terms of this Agreement shall be required to become and remain members of the Union as a condition of employment”. The Company contends that “the Bargaining Unit is and always has been limited to ADT servicemen who primarily work on fire and burglary alarm systems and report to the ADT office in Minneapolis’. [Post-Hearing Brief of ADT Security Systems, Inc. at 2].

The Sensormatic Corporation was acquired by Tyco several years ago. There is no longer a corporation called “Sensormatic”. Rather, Tyco under ADT Security Systems, Inc. began manufacturing a brand of ADT equipment called “Sensormatic”. ADT Security Services, Inc. argues that the “so-called ‘Sensormatic’ servicemen, although ADT employees, do not report to the Minneapolis office; the supervisory and reporting structure is completely separate from ADT reporting and supervisory structure for fire and burglary alarm work, not only in Minnesota, but nationwide”. [Post-Hearing Brief of ADT Security Services, Inc. at 2]. “ ‘Sensormatic’ is a term [brand] denoting theft detection systems (termed in the record ‘Electrical Article Surveillance’ or, ‘EAS’ systems) to prevent shoplifting that are installed in service by ADT in retail establishments”. [Id.] “The Sensormatic organization is also known as ‘Retail Division’ of ADT”. [Id.] “There are between 300 and 400 Sensormatic technicians employed by ADT throughout the United States “none of whom are represented by the IBEW or any other Union under any Collective Bargaining Agreement with ADT covering fire and burglar alarm servicemen as here.” [Id.] “Moreover, the Bargaining Unit employees in this case are not qualified to do EAS work of ‘Sensormatic’ technicians, which requires an associate degree in electronics or equivalent service. No such degree or experience is required for ADT fire and burglar alarm servicemen, contends ADT Security Systems, Inc.” [Id.]

IBEW Local 110 contends it is irrelevant whether the “ADT-Sensormatic” employees work out of their homes. They are, in fact, doing work on technology circuits or systems in performing electrical work in the State of Minnesota under the license of ADT Security Systems, Inc. So the Union argues

“even if the individual performing the work need not be licensed, the contractor must have a license with the State of Minnesota in order to perform the work”. [Post-Hearing Brief of Union at 6]. So contends the Union “that employer has a Collective Bargaining relationship with Local 110. Despite ADT’s claims to the contrary, those employees are employees of ADT, covered under the Collective Bargaining Agreement, must be paid according to the terms of that agreement, and must become members of Local 110 as provided for under the agreement”. [Id.].

ADT Security Systems, Inc. counters this by arguing “the evidence shows that unlike the fire and burglar alarm servicemen who report to and are supervised in the Minneapolis office, Sensormatic or Retail Division technicians work from their homes. Their work in dispatching is paperless and completely separate from the fire and burglar alarm servicemen. Each organization has a separate Human Resources Department and separate managerial and administrative personnel”. [Id. at 2]. Consequently, ADT Security Systems, Inc. argues that “Sensormatic was once a separate company and was acquired by Tyco, the parent company of ADT, in approximately 2001. Only then did EAS or “Sensormatic” work become part of the ADT organization. [Id.].

The thrust of ADT Security Services, Inc.’s argument is that Sensormatic installation of anti-theft security systems is completely different from ADT’s IBEW Local 110’s work of installation of anti-burglary and fire security systems.

ADT Security Systems, Inc.’s representatives at the arbitration hearing admitted that up to 35% of the work the Sensormatic employees perform is on closed-circuit television equipment. However, ADT Security Systems, Inc. states “to the extent that Sensormatic employees and Bargaining Unit employees both do some CCTV work, such work is not their primary function and is done for different customers [i.e. anti-theft shoplifting customers]. There is no evidence that the contractual Bargaining Unit has lost work as a result of the performance by Sensormatic servicemen of some CCTV work. Moreover, the Collective Bargaining Agreement does not invest exclusive jurisdiction in the Union to all or any particular ADT work or even describe ‘Bargaining Unit work’”. [Post-Hearing Brief of ADT

Security Services, Inc. at 4]. Basically, ADT Security Services, Inc. contends that IBEW Local 110 is requesting “that the arbitrator accrete Sensormatic servicemen to the contractual Bargaining Unit without a vote of those servicemen, therefore, usurping the separate representation rights of the Sensormatic servicemen to choose whether or not to be represented by this Union or any Union”. [Id. at 4-5].

IBEW Local 110 contends that part the Tyco strategy “is to argue that entities are still separate when it benefits Tyco, and to rate them as one entity when that benefits Tyco . . . Initially, ADT took the position that the employees in question were Sensormatic employees, and not employees of ADT. [Post-Hearing Brief of Union at 14]. “In an attempt to have their cake and eat it, too, ADT argued in the arbitration . . . that the ADT employees were not working out of the Minneapolis-St. Paul office, and, therefore, were not covered by the Collective Bargaining Agreement”. [Id. at 14-15].

IBEW Local 110 and ADT Security Services, Inc. seem to agree that the installation of the anti-shoplifting theft devices using Sensormatic brand equipment [installed by ADT-Sensormatic technicians] is different from the installation of burglary and fire security devices [installed by ADT IBEW Local 110 technicians].

Both the Union and the Company agree that up to 35% of the work done by “ADT-Sensormatic” technicians include the installation and repair of CCTV systems. ADT Security Systems, Inc. agrees that “that Sensormatic employees and Bargaining Unit employees both do some CCTV work”. [Post-Hearing Brief of ADT Security Systems, Inc. at 4]. But the Company argues “such work is not their primary function and is done for different customers”. [Id.] Further, “there is no evidence that the contractual Bargaining Unit has lost work as a result of the performance by Sensormatic servicemen of some CCTV work”. Finally, the Company contends “the Collective Bargaining Agreement does not vest exclusive jurisdiction in the Union to all or any particular ADT work or even describe ‘Bargaining Unit work’”. [Id.].

While the Collective Bargaining Agreement does not define precisely what “Bargaining Unit work” is, nevertheless “both do some CCTV work” [Post-Hearing Brief of ADT Security Services, Inc. at 4]. In fact, “ADT representatives admit that up to 35% of the work the Sensormatic employees perform is on CCTV equipment, which is precisely the same work performed by many ADT employees under the contract”. [Post-Hearing Brief of Union at 17]. The Company argues that CCTV work is not the primary function of the Sensormatic technicians and is done for different customers. [See Post-Hearing Brief of ADT Security Services, Inc. at 4]. The reason the grievance was filed by IBEW Local 110 business agent, Rick Bieniek, was because he saw an ADT-Sensormatic employee doing CCTV work. After the grievance, other IBEW Local 110 members saw such work being performed by ADT-Sensormatic technicians. While it is a fact that the Sensormatic brand machinery installation is not the kind of work that the IBEW Local 110 ADT employees have installed - which requires more training and education to install - nevertheless, CCTV work is the same work performed by ADT IBEW Local 110 employees under the Collective Bargaining Agreement. It does not matter that the CCTV work is done for different customers, i.e., anti-theft security customers as opposed to burglary and fire security customers. The CCTV work is the same work.

On the other hand, the argument used by the Union that ADT is in violation of the Minnesota Electrical Act has no bearing on the issues in this case. Both the IBEW Local 110 ADT employees and the ADT-Sensormatic employees are working for ADT Security Systems, Inc. which does have a valid Minnesota electrical license. ADT Security Systems, Inc. and IBEW Local 110 have agreed in the Collective Bargaining Agreement that the Union is the exclusive bargaining representative for all fulltime and regular servicemen employed by ADT Security Services, Inc. at its facility located in Minneapolis-St. Paul, Minnesota. [Joint Exhibit No. 2, Article 1, Section 1]. Both sides have agreed in Article 1, Section 3, that “all employees covered by the terms of this Agreement shall be required to become and remain members of the Union as a condition of employment”. It is irrelevant that the “ADT-Sensormatic” employees are dispatched from a different place; are controlled by a different

Human Resources office; and are dispatched from their homes. They are working in Minneapolis-St. Paul, Minnesota and doing CCTV work, which is work covered under the Collective Bargaining Agreement between ADT Security Services, Inc. and IBEW Local 110. By doing CCTV work in Minneapolis and St. Paul, Minnesota, the “ADT-Sensormatic” employees are required under the Collective Bargaining Agreement to become and remain members of the union as a condition of employment in Minneapolis and St., Paul, Minnesota. They are also required to pay Union dues to the exclusive Bargaining representative i.e., IBEW Local 110. The fact that they are also doing “Sensormatic” installation, installation not covered under the Collective Bargaining Agreement, is irrelevant. Up to 35% of their work in installing CCTV systems is work protected for ADT IBEW Local 110 employees under the Collective Bargaining Agreement. While CCTV work “is not ‘ADT Sensormatic employees technicians’ primary function and is done for different customers”, [ADT Security Services, Inc. Post-Hearing Brief at 4], nevertheless 35% is CCTV work protected by the Collective Bargaining Agreement. It is not peripheral and incidental to the work done by the ADT IBEW Local 110 employees. It is irrelevant that the work is being done for different customers. CCTV work in Minneapolis-St. Paul is work protected by the Collective Bargaining Agreement between ADT Security Services, Inc. and the International Brotherhood of Electrical Workers Local 110. The arbitrator is not rewriting the parties’ contract, the arbitrator is enforcing the contract. This interpretation draws its essence from the contract.

The grievance is sustained. ADT is ordered to pay contractual pay and benefits to all employees operating under the ADT license in Minnesota and performing CCTV installation work for all and any customers. All employees who have worked as “ADT-Sensormatic” employees since February 16, 2005 shall be made whole in that the contractual pay and benefits of the Collective Bargaining Agreement must be paid, this includes deducting and paying to Local 110 the appropriate dues for the time the employees worked in Minnesota. The Arbitrator shall maintain jurisdiction in this matter until June 1, 2007 in case additional proceedings are necessary to enforce the remedy.

This Arbitrator makes no finding concerning whether “Sensormatic” work in and of itself – not including the CCTV work-is covered by the Collective Bargaining Agreement. But does find that the CCTV work, both installation and repair, is within the exclusive jurisdiction of the ADT International Brotherhood of Electrical Workers Local 110 employees per the Collective Bargaining Agreement.

Dated: September 29, 2006.

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Joseph L. Daly  
Arbitrator